

AFFIDAVIT OF PROBABLE CAUSE

I, Daniel Patrick Smiley, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

1. I am a Law Enforcement Officer (LEO) with the United States Forest Service Law Enforcement and Investigations (LE&I), assigned to the McKenzie Ranger District in Watford City, North Dakota. I have been employed by the Forest Service since May of 2022 and completed Land Management Police Training in October of 2022, where I received over 700 hours of training related to federal law enforcement at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. While at FLETC, I received training related to firearms crimes. This included training on what individuals are prohibited from possessing firearms.

2. Prior to Forest Service LE&I, I worked as a sworn law enforcement officer in Illinois from June of 2016 to May of 2022. While employed as a law enforcement officer in Illinois, I conducted numerous investigations for crimes including but not limited to: theft, larceny, unlawful possession of weapons, and obstructing justice. Likewise, I have also made hundreds of arrests, including arrests of individuals who were in possession of weapons they were prohibited from possessing. As a law enforcement officer in Illinois, I also participated in preparing and executing search warrants related to the unlawful possession of weapons, including firearms.

3. As a Law Enforcement Officer (LEO) with the Forest Service in Watford City, I am responsible for enforcing federal criminal statutes and regulations on federal lands administered by the Forest Service. This includes the unlawful possession of

firearms, pursuant to Title 18, United States Code (USC). I have received training and actual experience relating to Federal Criminal Procedures, Federal Statutes, and Forest Service regulations. I have received training and instruction in the field of investigation and have had the opportunity to participate in investigations relating to the unlawful possession of firearms by prohibited persons. The information contained within this affidavit is based on my training and experience, and information obtained from other law enforcement officers and agents involved with this investigation. This affidavit is intended to show merely that there is sufficient probable cause for the requested search warrant and does not set forth all of my knowledge about this matter.

4. This Affidavit is made in support of an application for a warrant to search the person of Brock J. Lewis, redacted date of birth 03/XX/1988 (hereinafter B. Lewis), the residence located at 802 40<sup>th</sup> Street East, Williston North Dakota (hereinafter the residence), one 2020, grey in color, Chevrolet pickup bearing North Dakota Tag 087DDM, and one 2023, black in color, Chevrolet Trail Blazer bearing North Dakota Tag 099DDE. Brock J. Lewis, the residence, and the vehicles are more particularly described in Attachment A of this Affidavit.

5. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of the Specified Federal Offenses further identified as 18 U.S.C. § 922(g)(2) and 36 CFR 261.54(d), which make it a crime for a fugitive from justice to possess firearms, and for an individual without a valid driver's license to operate a motor vehicle on Forest Service roads, have been

committed by the subject of this investigation. Pursuant to 18 U.S.C. § 921(a)(15), the term “fugitive from justice” means “any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.” As noted below, this Affidavit establishes that Brock J. Lewis fled Guernsey County, Ohio, to avoid prosecution after Lewis pleaded guilty to the felony offense of “improperly handling firearms in a motor vehicle,” failed to appear for his sentencing hearing, and thereafter, an active warrant for his arrest was issued on February 10, 2021. There is also probable cause to search the person, residence, and vehicles described in Attachment A for evidence, contraband, fruits and instrumentalities of violations of 18 U.S.C. § 922(g)(2) and 36 CFR 261.54(d).

6. Because this Affidavit is being submitted for the limited purpose of establishing probable cause, I have not included every detail of every aspect of the investigation. Rather, I have only set forth only those facts that I believe are necessary to establish probable cause to search the person, residence, and vehicles listed in Attachment A for the items listed in Attachment B. Unless specifically indicated, all conversations and statements described in this Affidavit are related in substance and in part.

7. As a result of the investigation described more fully below, there is probable cause to believe that evidence, contraband, and fruits of, and other items related to, violations of the Specified Federal Offenses, are present on Brock J. Lewis’ person, the residence, and/or the vehicles described in Attachment A.

SUMMARY OF INVESTIGATION

8. On May 12<sup>th</sup>, 2024, Brock Joseph Lewis was lawfully stopped by Forest Service Law Enforcement after failing to signal a right hand turn while operating a motor vehicle on Forest Service Road 8461, on the McKenzie Ranger District, within the Dakota Prairie National Grasslands in McKenzie County, North Dakota. At the time of this stop, B. Lewis was operating a grey, 2020 Chevrolet Pickup bearing North Dakota Tag 087DDM, which was later observed at B. Lewis' residence on May 23<sup>rd</sup>, 2024.

9. Inside the pickup was B. Lewis, Rosemary Lewis (hereinafter R. Lewis), and their two juvenile children. B. Lewis admitted to Forest Service Law Enforcement that his driver's license was revoked due to multiple driving under the influence charges from other states. An AR-15-style rifle was observed on the passenger side of the pickup and B. Lewis also admitted to possessing an additional rifle and pistol in the pickup as well.

10. A driver's license query was requested through North Dakota State Radio for B. Lewis, which returned "revoked" out of the State of Michigan. An active, non-extraditable felony warrant from Ohio for B. Lewis also returned with his driver's license status. This warrant was for failing to appear on the charge of "mishandling firearms in a motor vehicle" issued by Guernsey County, Ohio and was found to be active since February of 2021.

11. B. Lewis was unable to provide specifics related to his outstanding arrest warrant or the circumstances that led the felony charges. B. Lewis informed me he

believed the charges filed against him were misdemeanors. This statement was later proved false after obtaining and listening to the audio recording of B. Lewis' plea agreement from this case and learning that B. Lewis acknowledged the charges filed against him were felony charges.

12. B. Lewis informed law enforcement that he possessed an AR-15 style rifle, a bolt action rifle, and a pistol in his pickup. Forest Service law enforcement approached the still occupied pickup and spoke with R. Lewis, who gave her consent to allow law enforcement to remove and render safe the firearms located within the pickup. R. Lewis denied knowledge of there being small weapons, including pistols, inside the pickup. Both rifles were removed from the pickup at this time and rendered safe.

13. In a later conversation, Forest Service law enforcement spoke with B. Lewis who stated there was a pistol underneath the driver's seat of the pickup with a loaded magazine in it. While this conversation took place, R. Lewis and her two juvenile children were both within arm's reach of this firearm. Given the uncertainty of B. Lewis' prohibited status related to firearms, and there being an additional firearm within the pickup where R. Lewis and her two children were, Forest Service Law Enforcement performed an additional weapon's sweep of the pickup. In doing so, two additional pistols were located within.

14. In total, Forest Service Law Enforcement located the following firearms inside B. Lewis' pickup:

- a. Sig Sauer M400 AR-15 (SN: 20L121518): Front passenger seat, chambered in .223.
- b. Remington 700 (SN: G6995560): Secured in a case underneath the rear bench seat, chambered in .22-250.
- c. Springfield Hellcat Pistol (SN: BB417111): Secured in a holster underneath the driver's seat, chambered in 9mm, equipped with a magazine loaded with ammunition.
- d. Smith and Wesson M&P Shield (SN: REU5748): Underneath the middle seat cushion of the front seat, chambered in .380, equipped with a magazine loaded with ammunition.

15. After informing B. Lewis about the two additional pistols located within the pickup, B. Lewis gave his consent to law enforcement to search the pickup completely for contraband, including narcotics.

16. North Dakota State Radio was provided with the identifying information for all four firearms, all of which returned clear. North Dakota State Radio reviewed B. Lewis' criminal history through North Dakota, Ohio, and Michigan and located multiple felony offense filings in both Michigan and Ohio but did not locate a felony offense conviction. North Dakota State Radio was also unable to provide any further information regarding B. Lewis' valid felony warrant issued by Guernsey County, Ohio.

17. All four firearms were returned to B. Lewis' pickup. B. Lewis was informed that he would be contacted in the future to discuss driving with a revoked

license on federal lands administered by the Forest Service and was asked for a current address. B. Lewis provided 802 40<sup>th</sup> Street East, Williston, North Dakota as his current address. Rosemary Lewis was asked for their current address while separated from B. Lewis, who provided the same address B. Lewis did.

18. On May 13<sup>th</sup>, 2024, I contacted the Guernsey County Clerk of Courts Office, who provided a signed and filed plea agreement for Guernsey County, Ohio Case 20CR231. I also spoke with the Ohio Highway Patrol in Cambridge, Ohio, who provided Ohio Highway Patrol report 18-700029-0700. This report documented the incident which ultimately led to Guernsey County, Ohio filing the charges listed in 19CR254 and then 20CR231. From reviewing this documentation, I learned the following:

- a. B. Lewis was stopped by the Ohio Highway Patrol in October of 2018 where he was found to be in possession of at least one firearm and illegal narcotics.
- b. In July of 2019, B. Lewis was indicted by a Grand Jury in Guernsey County, Ohio, which charged B. Lewis with aggravated possession of drugs and a firearms specification (19CR254), stemming from the events that occurred during the Ohio Highway Patrol traffic stop in October of 2018.
- c. In June of 2020, B. Lewis was made aware of the felony charges filed against him in 19CR254 and was also sent mail at 105 Chaffee Drive in Orwell, Ohio from the Guernsey County Prosecutor's Office.

- d. In July of 2020, B. Lewis was sent mail at 418 32nd Street E, Apartment 301 in Williston, North Dakota from the Guernsey County Prosecutor's Office.
- e. On October 8<sup>th</sup>, 2020, a bill of information was filed (20CR231) which charged B. Lewis with the felony offense of improperly handling firearms in a motor vehicle. This charge was based on the events that occurred during the Ohio Highway Patrol traffic stop in October of 2018, and was refiled as part of a negotiated plea agreement, which resulted in 19CR254 being dismissed.
- f. On October 8th, 2020, B. Lewis appeared in Guernsey County, Ohio Court, signed a negotiated plea, and plead guilty to the felony offense of "improperly handling firearms in a motor vehicle" charged in 20CR231. The plea agreement was signed by B. Lewis, his attorney, the prosecuting attorney, and the Judge overseeing the case.
- g. The plea agreement was accepted by the Guernsey County Court and filed.
- h. Within the plea agreement, it explicitly stated that B. Lewis will no longer be legally allowed to possess firearms, a statement that is underlined in pen ink on the agreement. It further states that if B. Lewis is found in possession of firearms, he would be subject to federal prosecution.

- i. Within the plea agreement, an agreed upon sentencing date for December of 2020 is listed. This sentencing date was later continued to February 2021 and all parties involved were made aware of this change.
- j. The plea agreement indicated that B. Lewis was facing up to 18 months in prison and a maximum \$5,000.00 fine for the felony offense he pled guilty to, which B. Lewis acknowledged when he signed the plea agreement.
- k. B. Lewis failed to appear for sentencing in February of 2021 and a warrant was issued for his arrest on February 10th, 2021.

19. I obtained the audio recording of B. Lewis' plea agreement hearing that took place on October 8<sup>th</sup>, 2020 and learned the following:

- a. B. Lewis was physically present in Guernsey County Court and acknowledged that he was pleading guilty to a felony offense.
- b. B. Lewis asked the Judge if there would ever be a point in the future where he could regain his ability to possess firearms back.
- c. B. Lewis was ordered to be fingerprinted and photographed by the Guernsey County Sheriff's Office following the plea hearing.
- d. B. Lewis acknowledged that the maximum prison sentence for the offense he plead guilty to was 18 months.
- e. B. Lewis acknowledged that he would be required to return to Guernsey County Court for a sentencing hearing at a later date.

20. On May 23<sup>rd</sup>, 2024, an FBI Agent conducted surveillance on the residence located at 802 40<sup>th</sup> Street E in Williston, North Dakota and observed B. Lewis' grey, 2020 Chevrolet pickup bearing North Dakota Tag 087DDM and his black, 2023 Chevrolet Trail Blazer bearing North Dakota Tag 099DDE parked in the driveway.

21. Upon reviewing a Lexis Nexis comprehensive report for B. Lewis, I found that B. Lewis established an address in Williston, North Dakota in August of 2020. Currently, B. Lewis resides in a 3-bedroom 3.5-bathroom townhouse with a 2-car attached garage in Williston, North Dakota. B. Lewis also owns two vehicles that are both registered in North Dakota and possesses a North Dakota identification card.

22. Additionally, the Guernsey County Prosecutor's Office has not had any recent contact with B. Lewis regarding his open case. Specifically, the Guernsey County Prosecutor's Office has not had any contact with B. Lewis since May 12<sup>th</sup>, 2024, when B. Lewis was made aware of his outstanding arrest warrant.

### **CONCLUSION**

23. Through the facts above, I have shown that B. Lewis knew criminal charges were still pending against him when he left Guernsey County, Ohio after signing his plea agreement and agreeing to a sentencing hearing in December of 2020. When B. Lewis failed to appear for his revised sentencing hearing date, the Guernsey County Court and the Ohio Highway Patrol both attempted to contact B. Lewis multiple times, all of which were unsuccessful. In February of 2021 an arrest warrant was issued for B. Lewis for failing to appear to his sentencing hearing and has been active since it was issued. These

facts show sufficient probable cause that on May 12<sup>th</sup>, 2024, B. Lewis was a fugitive from justice in possession of multiple firearms and ammunition, violating 18 U.S.C. § 922(g)(2). Additionally, these facts also show sufficient probable cause that B. Lewis was knowingly operating a motor vehicle with a revoked driver's license, in violation of 36 CFR 261.54(d) on May 12<sup>th</sup>, 2024.

24. Based on my training and overall experience, I know that firearms and ammunition are valuable and regularly kept on one's person, secured within an individual's residence, and/or in one's vehicle for safekeeping. Furthermore, through this investigation I have shown that B. Lewis keeps firearms in his vehicle and possesses equipment capable of securing firearms on his person.

25. Accordingly, I respectfully request that this Court issue a search warrant for the person, the residence, and the vehicles more particularly described in Attachment A, and authorize the seizure of the items described in Attachment B, which constitute evidence, contraband, fruits, and other items related to violations of the Specified Federal Offenses. The foregoing is true to the best of my knowledge and belief.

FURTHER YOUR AFFIANT SAYETH NOT

Digitally signed by  
DANIEL SMILEY  
Date: 2024.05.28  
12:25:35 -05'00'

Daniel P. Smiley  
Law Enforcement Officer  
United States Forest Service

Subscribed and sworn to me this 28 day of May, 2024.

  
CLARE R. HOCHHALTER

United States Magistrate Judge